

REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. VIII-B

COMMISSION MEETING 10-27-10

APPROVED BY

October 27, 2010

FROM: JERRY D. BISHOP, Assistant Director
Development and Resource Management Department

[Signature]
DEPARTMENT DIRECTOR

THROUGH: MIKE SANCHEZ, Planning Manager
Development Services Division

BY: BONIQUE SALINAS, Planner *B.S.*
Development Services Division

SUBJECT: CONSIDERATION OF CONDITIONAL USE PERMIT APPLICATION NO. C-10-102
AND ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT NO.
C-10-102

RECOMMENDATION

Upon consideration of staff evaluation, it can be concluded that the proposed Conditional Use Permit Application No. C-10-102 is appropriate for the project site. Therefore, staff recommends the Planning Commission take the following actions:

1. APPROVE the environmental finding of Environmental Assessment No. C-10-102 dated September 3, 2010, a determination that the proposed project is exempt from CEQA through a Class 1 and Class 3 Categorical Exemption.
2. DENY the appeal and UPHOLD the action of the Development and Resource Management Department Director approving Conditional Use Permit Application No. C-10-102 subject to the following:
 - a. Development shall take place in accordance with the Conditions of Approval detailed in the approval letter for Conditional Use Permit Application No. C-10-102 dated September 8, 2010.

EXECUTIVE SUMMARY

Conditional Use Permit Application No. C-10-102, filed by Cynthia Zamora on behalf of Kirkus Burks, owner of the Elm Street Grill, pertains to 1.91 acres of property located on the east side of South Elm Avenue between East Annadale and East Vine Avenues. The applicant requests authorization to: (1) Expand an existing restaurant to create a banquet room (**not a banquet hall**); and, (2) Obtain a State of California Alcoholic Beverage Control (ABC) Type 41 license for the facility. A type 41 license permits a restaurant to have the sale of beer and wine for consumption on-site.

The Development and Resource Management Department Director approved this conditional use permit application on September 8, 2010. In accordance with the Special Permit Procedure of the Fresno Municipal Code, a notice of granting of the conditional use permit application was mailed to surrounding property owners. In response to this notice, an appeal was received from the H.E.A.T. for Southwest Fresno, a community group (see attached Exhibit C).

PROJECT INFORMATION

PROJECT	Conditional Use Permit Application No. C-10-102 is a request for authorization to expand an existing restaurant to create a banquet room (not a banquet hall); and, (2) Obtain a State of California Alcoholic Beverage Control (ABC) Type 41 license for the facility.
APPLICANT	Cynthia Zamora on behalf of Kirkus Burks, owner of the Elm Street Grill
LOCATION	Located on the east side of South Elm Avenue between East Annadale and East Vine Avenues (APN:328-240-32).
SITE SIZE	± 1.91 acres
LAND USE	Existing - Light industrial/commercial uses including a restaurant Proposed - Expanded restaurant that includes a banquet room with alcohol sales
ZONING	M-1 (<i>Light Manufacturing District</i>)
PLAN DESIGNATION AND CONSISTENCY	The request to establish a restaurant with alcohol sales is consistent with the existing M-1 zone district and the light industrial planned land use designation of the 2025 General Plan and the Edison Community Plan.
ENVIRONMENTAL FINDING	Staff has determined that the proposed project is exempt from CEQA through Class 1 and Class 3 Categorical Exemptions
PLAN COMMITTEE RECOMMENDATION	There is no Plan Implementation Committee in Council District 3
STAFF RECOMMENDATION	Staff recommends approval of Conditional Use Permit Application No. C-10-102 subject to the Conditions of Approval detailed in the approval letter dated September 8, 2010.

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Light Industrial	M-1 (<i>Light Manufacturing District</i>)	Sunset Wastepaper Transfer Station
East	Light Industrial	M-3 (<i>Heavy Industrial District</i>)	Warehouse/Light Manufacturing Building
South	Light Industrial	M-3 (<i>Heavy Industrial District</i>)	Light Industrial
West	Office Commercial	C-P (<i>Administrative and Professional Office District</i>)	Medical Clinic

ENVIRONMENTAL FINDING

The proposed project was determined to be exempt from CEQA by the Development and Resource Management Department on September 3, 2010 through a Class 1 and Class 3 Categorical Exemption.

A Class 1 exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities,.... involving negligible or no expansion of an existing use. The proposed project will be located within an existing building and will not result in an expansion of this building or alterations to the subject site. A Class 3 exemption consists of the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

The proposed use includes only interior modifications. These modifications are being done to increase the size of an existing use (a restaurant) by 1,600 square feet. This is a negligible expansion of the existing use.

BACKGROUND / ANALYSIS

Conditional Use Permit Application No. C-10-102 is a request for authorization to: (1) Expand an existing restaurant to create a banquet room (**not a banquet hall**); and, (2) Obtain a State of California Alcoholic Beverage Control (ABC) Type 41 license for the facility. Pursuant to Sections 12-226.1-A and 12-225.1-B-10 of the Fresno Municipal Code (FMC), a restaurant is permitted in the M-1 zone district. In addition, pursuant to Section 12-226.3-B-3 of the FMC, the retail sale of alcohol for on or off-site consumption pursuant to Sections 12-304-B-24 and 12-326, as applicable, is permitted with a conditional use permit in the M-1 zone district.

LAND USE PLANS AND POLICIES

The subject site is located within the boundaries of the Edison Community Plan and the 2025 Fresno General Plan. The proposed project has been required to comply with all applicable goals and policies within these plans.

DIRECTOR'S ACTION ON CONDITIONAL USE PERMIT

The Development and Resource Management Department Director took action on September 8, 2010 to approve Conditional Use Permit Application No. C-10-102. In accordance with Government Code Section 65091 (Planning and Zoning Law) and the Special Permit Procedure of the Fresno Municipal Code, a notice of granting of the conditional use permit application was mailed to surrounding property owners (Noticing Map attached as Exhibit D). The special permit does not become effective until 15 days from the date the special permit is granted in order to allow time for any interested parties to file an appeal. One appeal (dated September 23, 2010) was received during the 15-day appeal period from H.E.A.T., a community group. This appeal letter is attached as Exhibit C.

ANALYSIS OF THE APPEAL LETTER

Below is an analysis of the issues raised in the appeal letter dated September 23, 2010.

Issue #1: This location is near an elementary school

Response:

The elementary school is located about a quarter of a mile from the subject site. The proposed project was routed for comment to the West Fresno Elementary School District on May 3, 2010 with no comments received. A second request for comment was e-mailed to the School District on August 1, 2010 with no comments received to date. There is no evidence in the record that a restaurant serving alcohol for onsite

consumption will have a negative impact on a school located a quarter of a mile away from the subject site.

Issue #2: There is no need for additional outlets for the sale and consumption of alcohol in Council District 3.

Response:

There is no evidence in the record that there is an overconcentration of restaurants serving alcohol in the vicinity of the subject site. According to the applicant, there are several business owners and residents in the area that support this restaurant expansion because the area lacks a similar type of facility.

Issue #3: Increases the possibility of physical confrontations and driving under the influence.

Response:

There is no evidence in the record that supports this claim.

CONDITIONAL USE PERMIT APPLICATION REVIEW FINDINGS

No special permit may be issued unless it is found that the privilege exercised under the permit, as it may be conditioned, conforms to the findings of Section 12-405-A-2 of the Fresno Municipal Code. Based upon analysis of the conditional use permit application, staff concludes that all of the required findings can be made for this conditional use permit application as follows:

Findings per Fresno Municipal Code Section 12-405-A-2	
a. <i>All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,</i>	
Finding a:	The subject site is adequate in size and shape to accommodate the proposed use. Conditional Use Permit Application No. C-10-102 will comply with all applicable codes given that the special permit conditions of approval will ensure that all conditions are met prior to the site being occupied by the proposed use.
b. <i>The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,</i>	
Finding b:	The proposed project will be located in an existing building in a tenant space already approved for commercial/light industrial uses and thus will not result in significant impacts to traffic. Furthermore, the Public Works Department, Traffic Engineering Division reviewed the proposed project and assessed the adjacent streets to ensure that the proposal would not have significant impacts on traffic and the surrounding community. Subject to the Conditions of Approval for Conditional Use Permit Application No. C-10-102, the streets and highways will be of adequate width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
c. <i>The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of the FMC.</i>	

Finding c:	The proposed use will not have a negative impact on either the subject site, or neighboring properties given that the proposed project will be compatible with existing adjacent uses. The applicant has been required to comply with conditions that will help to protect the health, safety and welfare of public.
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Conclusion

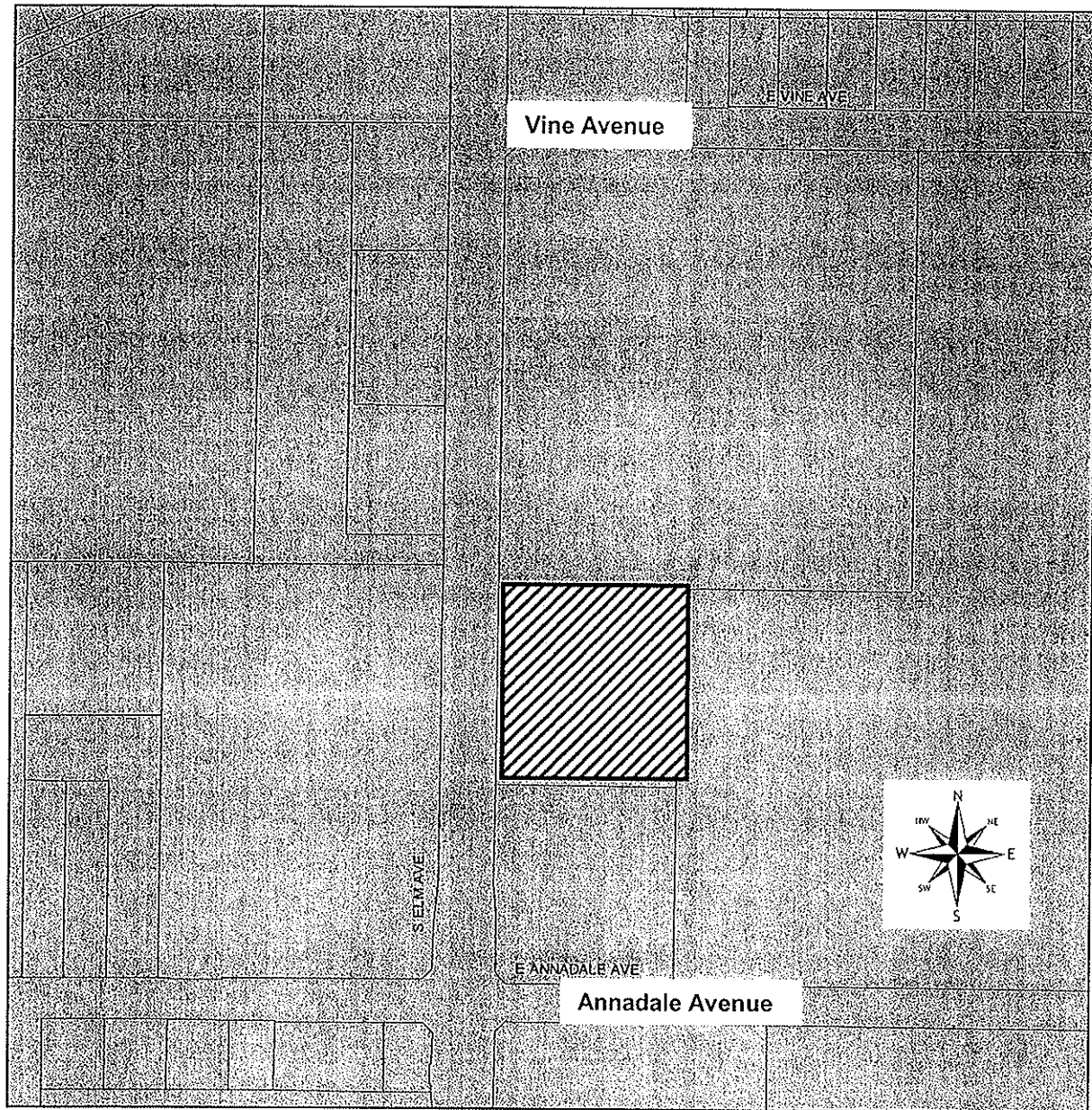
In conclusion, given that all mandated conditional use permit findings required pursuant to Section 12-405-A-2 of the Fresno Municipal Code can be made for Conditional Use Permit Application No. C-10-102 and given that the project meets all requirements of a Class 1 and Class 3 Categorical Exemption and is thus exempt from CEQA, staff recommends that the Planning Commission deny the appeal and uphold the action of the Director as previously described in this staff report.

Attachments:

- Exhibit A: Vicinity Map
- Exhibit B: 2008 Aerial Photograph of site
- Exhibit C: Appeal Letter
- Exhibit D: Noticing Map (350-foot radius)
- Exhibit E: Approval Letter/Conditions of Approval dated September 8, 2010
(enclosures not attached to this staff report)
- Exhibit F: Site Plan, Floor Plan and Elevations
- Exhibit G: Operational Statement and Operational Statement Template
- Exhibit H: Police Department Conditions dated March 11, 2010
- Exhibit I: Environmental Assessment No. C-10-102

Exhibit A
Vicinity Map

VICINITY MAP



CONDITIONAL USE PERMIT APPLICATION NO. C-10-102

2777 South Elm Avenue

LEGEND



Subject Property

Exhibit B
2008 Aerial Photograph of Site

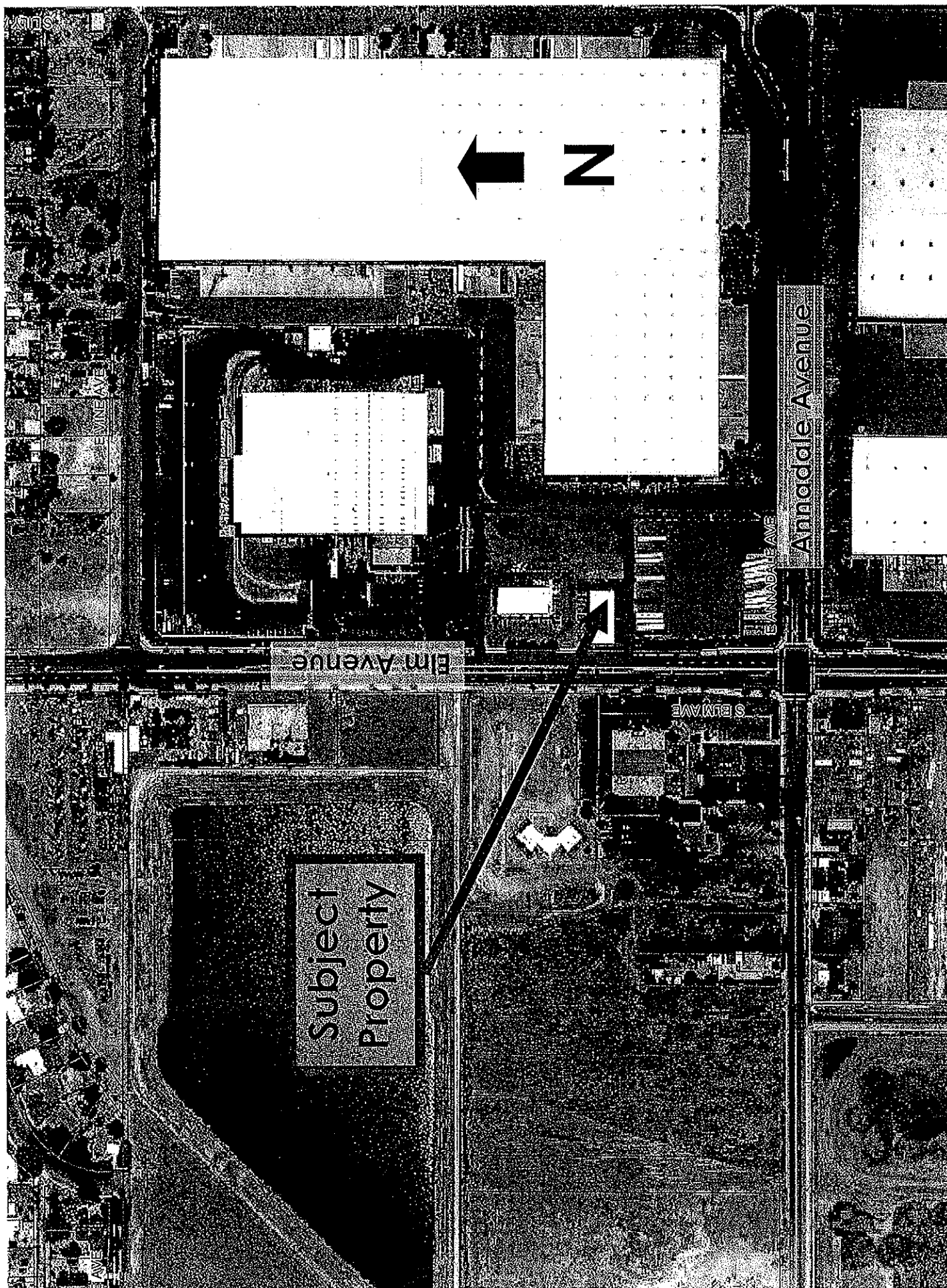


Exhibit C
Appeal Letter

The H.E.A.T for SouthWest Fresno Community

(Hope Effort Appropriately Thriving)

P O Box 12571

Fresno, CA 93778

e-mail:HEATSWFC@aol.com

RECEIVED

September 23, 2010

SEP 23 2010

Planning Division
Planning & Development Dept
CITY OF FRESNO

City of Fresno
Development & Resource Management Dept.
2600 Fresno St., Rm. 3043
Fresno, CA 93721

Attn: Bonique Salinas

Re: Conditional Use Permit Application No. C-10-102

HEATSWFC objects to the conditional use permit application for the following reasons:

1. This location is near an elementary school.
2. There is no need for additional outlets for the sale and consumption of alcohol in District 3.
3. Increases the possibility for physical confrontations and driving under the influence.

The recent nightclub assault and shooting is a prime example of the concerns being raised.

Sincerely,
Members of HEATSWFC

Exhibit D
Surrounding Property Notification Map

47926216

47926220

E VINE AVE

request ID: C-10-102

500

47904038T

11804061

47904050

47904010

64040617

32824049

32824050

47927026

32824032

32824047

E ANNADALE AVE

32814006

32814007

32814008

32814009

32814010

32814011

32814012

S ELM AVE

32829029

32829025

Exhibit E

Approval Letter/Conditions of Approval dated September 8,
2010

2600 Fresno Street - Third Floor
Fresno, California 93721-3604
(559) 621-8277 FAX (559) 498-1026

John M. Dugan, AICP
Director

September 8, 2010

Cynthia Zamora
AEC Solutions, Inc.
1713 Tulare Street, Suite 124
Fresno, California 93721

Please reply to:
Bonique Salinas
(559) 621-8024

**SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. C-10-102 FOR PROPERTY
LOCATED AT 2777 SOUTH ELM AVENUE (APN: 328-240-32)**

The Development and Resource Management Department on September 8, 2010 approved the subject Conditional Use Permit Application No. C-10-102 requesting authorization to: (1) Expand an existing restaurant to create a banquet room (**not a banquet hall**); and, (2) Obtain a State of California Alcoholic Beverage Control (ABC) Type 41 (restaurant - *sale of beer and wine for consumption on the licensed premises*) license for the facility, subject to the conditions of approval listed below.

The proposed project was determined to be exempt from CEQA by the Development and Resource Management Department on September 3, 2010 through Class 2 and Class 3 Categorical Exemptions.

A notice indicating the Development and Resource Management Department Director's approval of this project was mailed to nearby property owners on September 8, 2010, commencing a fifteen-day comment/appeal period. You may obtain necessary permits and proceed in accordance with the following conditions of approval after the 15 day comment/appeal period expires and no appeal of the approval of the special permit is filed. Should an appeal be received, it shall be scheduled to be heard before the Planning Commission.

CONDITION(S) OF APPROVAL

1. Development shall take place in accordance with Exhibits A and F dated August 25, 2010, Exhibit E dated April 28, 2010, the Operational Statement dated July 21, 2010, and the attached Operational Statement Template submitted with the conditional use permit application. Transfer all red line notes (or those highlighted) and provide all information as requested on the original site plan exhibits to the final exhibits.
2. This conditional use permit (CUP) **does not permit** the operation of a Banquet Hall on this site as defined by the Fresno Municipal Code. The subject site does not meet the parking requirements for this use. In the future if the applicant wishes to operate a Banquet Hall at this location an amendment to this CUP must be filed, reviewed and approved.
3. No dancing is allowed at this restaurant. Any dancing within a restaurant is considered a "Night Club" and is not allowed in the M-1 zone district outside of the downtown area (Central Area Community Plan).
4. Pursuant to Section 12-326-F of the Fresno Municipal Code, the operational statement for a restaurant serving alcohol requires more information than was provided in the operational statements submitted. Please provide the following information to the City prior to operation:

- a. An evacuation plan in case of emergency.
 - b. Security Plan (including efforts to ensure that the parking area is monitored to prohibit loitering and crowd and line control).
 - c. Efforts that have been taken to discuss the proposal with neighbors.
 - d. Copy of a valid Business Tax Certificate, if in business
5. Pursuant to Section 12-226.3-B-3, the retail sale of alcohol for on or off-site consumption pursuant to Sections 12-304-B-24 and 12-326, as applicable, is permitted with a conditional use permit in the M-1 zone district.

Applicable Requirements pursuant to Section 12-304-B-24 of the FMC

6. The sale of alcoholic beverages by retail stores for consumption either on-site or off-site shall comply with the following conditions
 - a. Alcoholic beverages shall be defined as those beverages requiring licensing for sale by the California State Department of Alcoholic Beverage Control (hereafter referred to as an "ABC License").
 - b. Failure to comply with any requirement or condition imposed under this conditional use permit shall constitute a violation of this Code and shall be subject to modification or revocation of said conditional use permit.

Applicable Requirements pursuant to Section 12-326 of the FMC

7. Pursuant to Section 12-326-E-3, a Restaurant must stop sales, service and consumption of alcohol at 12:30am nightly. All alcoholic beverages must be removed from the customer area at the appointed hour. The business may establish the time of "last call" for ordering alcoholic beverages.
8. Posting hours of operation and address. The owner and/or proprietor and/or applicant shall be responsible to conspicuously post the hours of operation near the entrance of the establishment. It shall be 8.5×11 inches in size. This posting shall be made available to City officials upon request. Additionally, the address of the facility shall be posted in compliance with City codes.
9. Loitering
 - a. The owner and/or proprietor, and/or operator of the establishment is responsible to provide supervision (i.e., security) to prevent loitering in the immediate vicinity of the establishment.
 - 1) During operating hours, the owner and/or proprietor shall prohibit loitering in the parking area.
 - 2) After closing hours, the immediate vicinity of the establishment including its designated parking area, shall be cleared within 15 minutes. The designated parking area, shall be oriented away from residences as much as possible, and shall be clearly depicted on the development plan submitted for the conditional use permit.
 - b. In the event that there is more than one establishment sharing a parking area, adjustments to the conditions of approval to each establishment shall be made so that there is a shared responsibility (*the subject site is owned by one property owner*).
10. Noise levels shall not exceed adopted levels per Fresno Municipal Code Chapter 10, Article 1.

11. The owner/proprietor/applicant shall be responsible to post required notices in a prominent place near the entrance to the premises. It shall be 11×17 inches in size, to be provided for by the City.

Requirements from other Departments/Agencies

12. Comply with all of the requirements for a change of occupancy for the existing structure on the subject property as may be required/stipulated by the City of Fresno Building & Safety Services Division at the time of plan check for building permits. See attached comments from Building and Safety Services dated May 4, 2010 which requires that the existing occupancy be clarified.
13. Comply with any and all of the requirements stipulated within the attached City of Fresno Police Department memorandum dated March 11, 2010. According to this operational statement, a security plan is required prior to approval. This security plan must be submitted and approved by the Fresno Police Department prior to operation.
14. Comply with any and all of the requirements for sanitary sewer and water service stipulated within the attached Department of Public Utilities, Planning and Engineering memorandums dated May 13, 2010.
15. Comply with any and all of the requirements stipulated within the attached County of Fresno, Department of Public Health memorandum dated May 4, 2010.
16. Comply with the requirements of the Fresno Fire Department as detailed in their letter dated May 6, 2010.
17. Comply with the requirements listed in the letter from the Redevelopment Agency dated May 11, 2010 which have been amended as follows:
 - I. The property identified in Application No. C-10-102 ABCUP is located in the adopted South Fresno Industrial Revitalization Redevelopment Project Area Plan and is subject to all requirements of the Redevelopment Plan.
 - II. The Redevelopment Agency has considered the request to establish a banquet facility in conjunction with an existing full-service restaurant and a request (application) for a State of California Alcoholic Beverage Control Type 41 license (restaurant- sale of beer and wine for consumption on the licensed premises). ~~and is very concerned about the existing conditions of the unfinished partly developed industrial development in which the proposed banquet facility will be located. On August 05, 1998, the property was approved for development of an Office Warehouse Complex through Site Plan Review Application No. S-98-098. To date, only about half of the proposed project and minimum (site) improvements has been constructed on the property. The remainder of the property continues to be vacant and remains undeveloped. See attached letter from the Redevelopment Agency dated August 31, 2010. The Agency has indicated that they support the project and that the improvements will be funded by the Agency at a later date.~~
 - III. ~~The Agency is very concerned about intensifying the land use on this property by permitting the establishment of a restaurant/banquet facility that will provide recorded music and live entertainment until midnight on a 7 day basis without the support and benefits of being located in a completed development (Office Warehouse Complex), especially to address the "cumulative impacts" from such a business and its scheduled hours of operation. The expiration of Site Plan Review Application No. S-98-098, without the completion of required site improvements, limits the ability of the existing property, in its present condition, to accommodate the future demands from the proposed expansion of the existing restaurant. See letter from the Redevelopment Agency dated August 31, 2010.~~

- IV. ~~Therefore, the Agency recommends that Conditional Use Application No. C-10-102 ABCUP be stopped or suspended until the clarification of the status of Site Plan Review Application No. S-98-098 and the required site improvements; and, the implementation of any remaining conditions or requirements of approval to complete Site Plan Review Application No. S-98-098 to the satisfaction of the Agency and the City of Fresno. See letter from the Redevelopment Agency dated August 31, 2010.~~
- V. Specifically, upon the clarification of the status of Site Plan Review Application No. S-98-098, the required site improvements, and the implementation of any conditions or requirements as required by the City of Fresno to complete Site Plan Review Application No. S-98-098; the Agency will reconsider its support of Conditional Use Application No. C-10-102 ABCUP, which will be determined by the project's ability to satisfy the conditions of approval and be a compatible business in the complex. **See condition 18 below.**
- VI. Please inform the Agency when Condition No. 4, above, has been completed and resubmit Conditional Use Permit Application No. C-10-102 ABCUP to the Agency for reconsideration per above Condition No. 5. *See letter from the Redevelopment Agency dated August 31, 2010.*

Other Requirements

18. Comply with all conditions required under Site Plan Review Application No. S-98-098 in the Conditions of Approval dated May 18, 2010, including the following requirements:

Part D- 5-a: Provide the following minimum landscaped area: Ten feet along the front.

Comply with the final site plan approved for Site Plan Review Application No, S-98-098 (attached and labeled Exhibit A and dated June 29, 1999).

Pay all applicable fees required under Site Plan Review Application No. S-98-098, including flood control fees, if not previously paid.

19. Remove barbed wired from fence that is parallel with Elm Avenue. No security wire is allowed along this frontage.
20. Consider removing the chain link fence that runs along Elm Avenue. The City would prefer no fence or a decorative metal or wrought-iron fence along this frontage.
21. The following number of parking stalls shall be maintained on the subject site: **33**
- a. For the restaurant: $3,311 \text{ sq. ft.} / 125 = 27$ parking stalls required for the restaurant.
 - b. 6 additional stalls are reserved for Building A based on the operational statement submitted by the property owner dated July 21, 2010.
 - c. No other tenants are allowed to occupy this site. If another use is proposed at this site, the Development and Resource Management Department must review the new use (though a revised exhibit) to ensure the site has adequate parking.
22. Any new lighting proposed for installation to illuminate parking areas, pathways, or signage shall be hooded and so arranged and controlled so as not to cause a nuisance either to vehicular traffic or to the living environment. Lighting to illuminate parking areas shall be provided according to the standards of the Department of Public Works.
23. Trees on the subject property shall be maintained in good health. Trees may not be trimmed or

pruned to reduce the natural height or overall crown of the tree, except as necessary for the health of the tree and public safety; or as may otherwise be approved by the Planning and Development Department. *(Include this note on the site plan and landscape plan.)*

24. All vegetation on the subject property shall be maintained free of physical damage or injury from lack of water, excess chemical fertilizer or other toxic chemical, blight, or disease, and any such vegetation which shows signs of such damage or injury at any time shall be replaced by the same, similar, or substitute vegetation of a size, form, and character, which will be comparable at full growth.
25. Landscaping on the subject property shall be kept free from weeds and undesirable grasses.
26. The vacant area on the eastern side of the subject site must be maintained and kept weed free.
27. All fences, hedges and walls shall conform to the provisions of Section 12-306-H of the FMC.
 - a. All future proposed fences, hedges and walls, etc. shall be reviewed and approved prior to installation by the City of Fresno Development and Resource Management Department.
28. Signs, other than directional signs, if applicable, are not approved for installation as part of this special permit. Submit for a separate Master Sign Program or Sign Review Application. Applications and requirements for submittal are available at the Planning Division's Public Front Counter. *(Include this note on the site plan).*
29. All storage shall be within an enclosed structure.
30. The redwood header shown on Exhibit A dated August 25, 2010 is required and must be installed prior to operation. **There shall be no parking on the vacant dirt area on the subject site.**
31. Approval of this special permit may become null and void in the event of failure by the applicant and/or authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.
32. Approval of this special permit may become null and void in the event that development is not completed in accordance with all conditions and requirements imposed on this special permit, the Zoning Ordinance, and all Public Works Standards and Specifications. The Development and Resource Management Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plan not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions. *(Include this note on the site plan.)*
33. No uses of land, buildings, or structures other than those specifically approved pursuant to this site plan shall be permitted. *(Include this note on the site plan.)*

Please be advised that this project may be subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the health, safety and welfare of the community, and recommended conditions for development that would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings pursuant to Section 12-405.A of the Fresno Municipal Code can be made.

Discretionary conditions of approval will ultimately be deemed mandatory unless appealed in writing to the Director within 15 days.

In the event you wish to appeal the Department's decision, you may do so by filing a written appeal with the Director. The appeal shall include the appellant's interest in or relationship to the subject property, the decision or action appealed and specific reasons why the appellant believes the decision or action appealed should not be upheld. Appeals must be filed by September 23, 2010.

If any appeal is filed, the matter will be set for public hearing before the planning commission. If no appeal is filed you may obtain any necessary permits and proceed with the development of the project in accordance with the conditions noted above.

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

EXPIRATION DATES

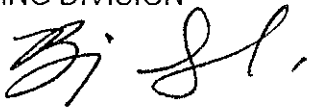
The exercise of rights granted by this special permit must be commenced by September 8, 2014 (four years from the date of approval). There is no extension.

Copies of the final approved site plan wet-stamped by the Development Services Division **must be substituted for unstamped copies of the same in each of the four sets of construction plans submitted for plan check a related to the issuance of building permits.**

On-site inspections will not be authorized unless the final wet-stamped approved site plan is included in the plan check field copy.

Should you need further assistance or have any questions, please contact me at the telephone number listed above or via e-mail at Bonique.Salinas@fresno.gov.

Sincerely,
PLANNING DIVISION

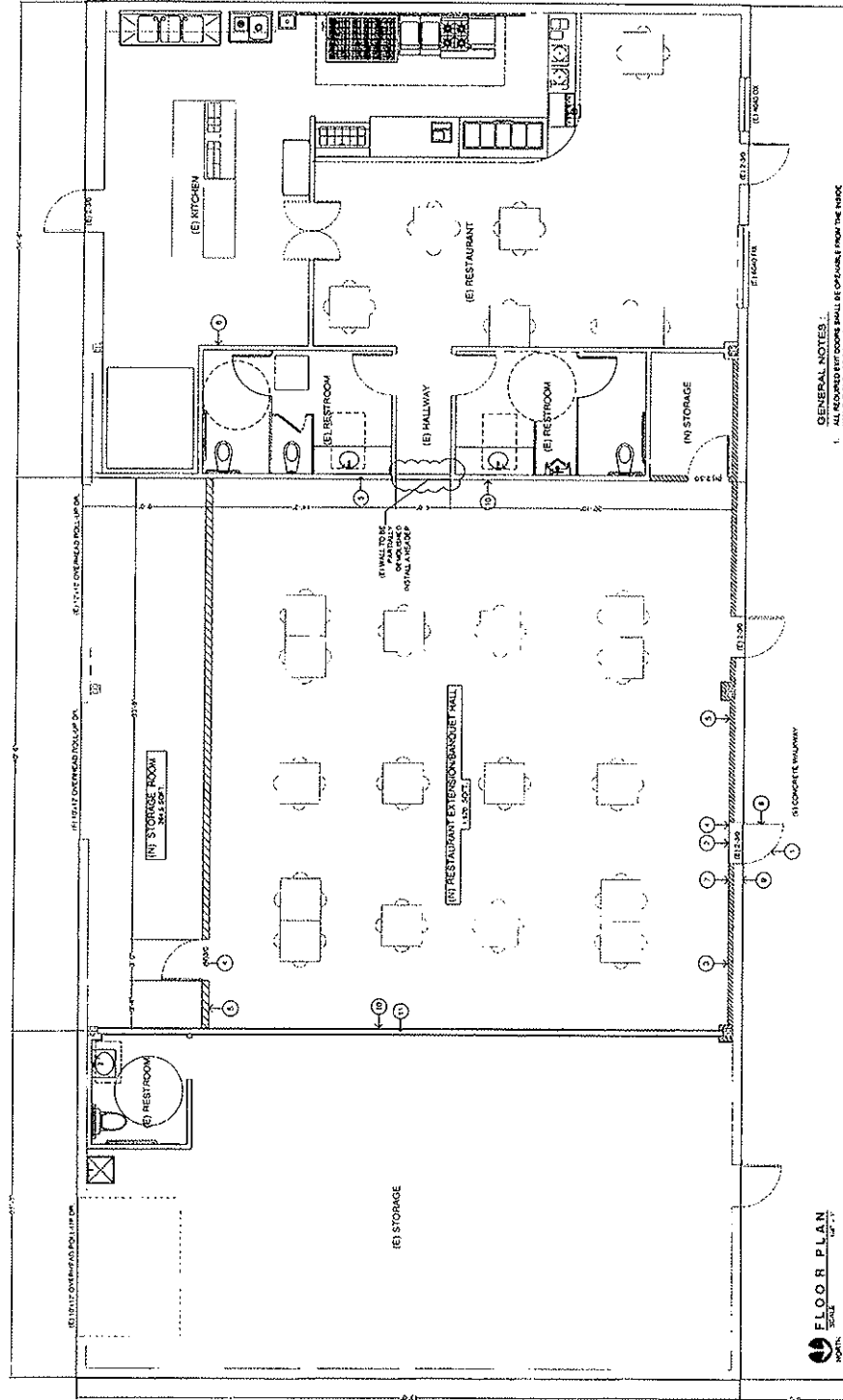


Bonique Salinas, Planner

Enclosures: Exhibits A and F dated August 25, 2010 and Exhibit E dated April 28, 2010
Operational Statement dated July 21, 2010, and Operational Statement Template
Comments from Building and Safety Services dated May 4, 2010
Department of Public Utilities, Planning and Engineering memos dated May 13, 2010
Fresno Police Department memorandum dated March 11, 2010
County of Fresno, Department of Public Health memorandum dated May 4, 2010
Fresno Fire Department letter dated May 6, 2010
Letter from the Redevelopment Agency dated August 31, 2010
Conditions of Approval dated May 18, 1998 for Site Plan Review Application No. S-98-098
Exhibit A and dated June 29, 1999 from Site Plan Review Application No. S-98-098

Exhibit F
Site Plan, Floor Plan and Elevation

[illegible]



GENERAL NOTES:

1. ALL REQUIRED EXIT DOORS SHALL BE OPENABLE FROM THE INSIDE WITHOUT THE USE OF A KEY OR ANY SPECIAL KNOWLEDGE OR EFFORT.
2. THE DOOR OPENING MEASUREMENT SHALL BE 2'0" MINIMUM HEIGHT AND 3'0" MINIMUM WIDTH.
3. THERE SHALL BE NO VERTICAL OBSTACLE TO THE PATH OF TRAVEL INTO THE BUILDING GREATER THAN 1/2".
4. THE FLOOR ON LANDING SHALL NOT BE MORE THAN 1'0" LOWER THAN THE FLOOR ON WHICH THE DOOR IS LOCATED.
5. PROVIDE SMOOTH, FLAT, NON-SLIP SURFACES AS PER APPS 4.1.5.
6. EXIT DOORS SHALL NOT BE EQUIPPED WITH GLASS OR GLASS SURFACE GLASS OR GLASS BLOCKS.
7. EXIT DOORS SHALL HAVE AN ILLUMINATED SIGN CLEARLY MARKED WITH THE WORD "EXIT" IN RED LETTERS.
8. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
9. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
10. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
11. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
12. PROVIDE EXIT LIGHTS WITH BATTERY BACKUP AT ALL EXIT DOORS.
13. PROVIDE EXIT LIGHTS WITH BATTERY BACKUP AT ALL EXIT DOORS.
14. PROVIDE EXIT LIGHTS WITH BATTERY BACKUP AT ALL EXIT DOORS.
15. PROVIDE EXIT LIGHTS WITH BATTERY BACKUP AT ALL EXIT DOORS.
16. PROVIDE EXIT LIGHTS WITH BATTERY BACKUP AT ALL EXIT DOORS.
17. PROVIDE EXIT LIGHTS WITH BATTERY BACKUP AT ALL EXIT DOORS.
18. PROVIDE EXIT LIGHTS WITH BATTERY BACKUP AT ALL EXIT DOORS.
19. PROVIDE EXIT LIGHTS WITH BATTERY BACKUP AT ALL EXIT DOORS.
20. PROVIDE EXIT LIGHTS WITH BATTERY BACKUP AT ALL EXIT DOORS.

KEY NOTES LEGEND:

1. STONEFRONT DOORS (1" MIN. HIDE PLATE)
2. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
3. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
4. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
5. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
6. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
7. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
8. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
9. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
10. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
11. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
12. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
13. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
14. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
15. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
16. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
17. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
18. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
19. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.
20. PROVIDE A 2'0" MINIMUM CLEARANCE ABOVE ALL DOORS AND WINDOWS.

UNIT DATA

FLOOR AREA	1,275.00 sq. ft.
OCCUPANCY GROUP	A-2
OCCUPANCY LOAD	BT
EXIT	(1) ONE EXIT REQUIRED (MIN.)

WALL LEGEND:

INT. WALL	1/2" MIN. HIDE PLATE
EXT. WALL	1/2" MIN. HIDE PLATE
GLASS	1/2" MIN. HIDE PLATE
GLASS BLOCK	1/2" MIN. HIDE PLATE
GLASS CURTAIN WALL	1/2" MIN. HIDE PLATE

INSULATION R-VALUES

WALL	R-13
CEILING	R-13
FLOOR	R-13

Exhibit G
Operational Statement and Operational Statement Template

July 21, 2010

City of Fresno
Planning and Development Department
2600 Fresno Street
Fresno, CA 93721-3604

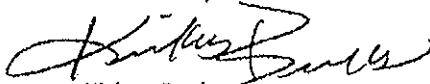
Reference: 2777 So. Elm Ave.
Fresno, Ca 93706

I own two commercial buildings on the same parcel. The first building is 2763 So. Elm, Fresno, CA, 93706. I have a traveling Steam Cleaning Business at this location. The hours of operation Sunday thru Thursday, 8:00 am to 5:00 pm. Our employees work from the Oregon border to Los Angeles. They leave on Sunday and return on Friday morning. Our work trucks are serviced inside the shop area, were their housed until departure. Our employees do not leave there personnel vehicles at the shop, mainly because they have a one vehicle household.

We are applying for a C.U.P. at 2777 So. Elm Ave, Fresno, CA, an extension of our Restaurant, We call it a Banquet Hall. We hope to sale Beer & Wine to our customers. Most Banquets are usually after 5:00 PM and on weekends. The parking stalls at 2763 So. Elm, will be empty because the business closes on Friday at noon and continue to be closed the entire weekend.

Thank you for your consideration.

Thank You,


Kirkus Burks

Operational Statement Template

Please use this template as a specific guide to explaining the scope of your project. This required information will assist all individuals, departments and agencies in their review and drafting of their comments, conditions and suggestions. Our goal is to facilitate an accurate and complete description of your project in order to avoid unnecessary delays in gathering additional information. If you have any questions about the requested information or need help completing any portions of this form please call the Development Partnership Center at (559) 621-8180. This form must be completed and submitted in order to process your application. If this operational statement is not submitted or incomplete your application will not be accepted for processing.

Project Description:

Banquet Hall / ABC is being submitted by _____ of _____ on behalf of _____ and pertains to _____ acres of property located at 2777 So. Elm Ave., Fresno, CA.
APN: _____ and is zoned _____ with a planned land use of _____
_____ is requesting authorization to:

_____ The proposed development will consist of:

_____ The existing site currently exists of _____ with _____ existing parking spaces.

_____ The proposed hours of operation are from 6AM to 2AM on 7 Days a week

_____ Other facts pertinent to this project are as follows:

These Banquet Hall will be an extension of a restaurant for people to gather to eat, socialize and conduct business.

Operational Narrative: (This is your opportunity to communicate in detail all other characteristics of your property that would be important to consider when reviewing for completeness and contemplating approval. Describe your proposed operation/development in as much detail as possible including information such as name of business, product or service, anticipated traffic-customers, deliveries, etc., any special events, number of employees, required equipment, on-site storage, demolition or adaptive reuse of existing structures, noise generation, any hazardous materials, etc.)

There is no facility like this in the area.

There are business like Foster Farm, Sunset waste, Seguin Health care, RDD, conservations are who would like to have gatherings with their employees and conduct business while they eat, that was close enough to these business locations

Exhibit H

Police Department Conditions dated March 11, 2010



Mariposa Mall
P.O. Box 1271
Fresno, CA 93715-1271

Police Department

Jerry P. Dyer
Chief of Police



March 11, 2010

Department of ABC
Christine Weldon
3640 E. Ashlan Ave
Fresno, California, 93726

Attn. Rosetta Walker

Re: Elm Street Grill
2777 S. Elm
Fresno, Ca, 93706

Dear Ms. Weldon

The City of Fresno has requested that the Fresno Police Department review the application of the property development at 2777 S. Elm. The Fresno Police Department's primary concern with the application is the propensity of the premises to generate calls for police service.

As you know, to approve any Conditional Use Permit, the City must make the following findings:

1. All applicable provisions of the Fresno Municipal Code are complied with and the site of the proposed use is adequate in size and shape to accommodate the use, including, all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,
2. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,
3. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. This third finding shall not apply to uses which are subject to the provisions of Section 12-306-N-39 of the Fresno Municipal Code (Regulating Adult Businesses).

The conditions are established to ensure public safety, and to minimize any impact for the surrounding area. This CUP allows for a **Type 41 license, alcoholic beverage sales in conjunction with the sale of food.** We request the following conditions be included as

Professional, Effective, Timely

Conditions of Approval. These conditions will maintain an environment that is least likely to generate public complaints and calls for service. The Fresno Police Department is not in opposition of this Conditional Use Permit, providing the applicant agrees to the listed conditions. If the following conditions are not included the Fresno Police Department shall oppose the approval of this Conditional Use Permit, and shall appeal such approval to the Planning Commission. As such, we request that you provide Detective Wallace #158 with notice of the Director's decision regarding this Conditional Use Permit as well as a complete copy of the conditions of approval, should the Director approve the Conditional Use Permit.

Requested Conditions of Approval:

1. Fresno Municipal Codes

The applicant shall comply with all applicable provisions of the Fresno Municipal Codes ("FMC"), including but not limited to:

- FMC 9-502 (Amusement Devices - Permit Required)
- FMC 9-1803 (Hours of Operation Billiard Hall)
- FMC 9-1804 (Restriction on Attendance of Minors in Billiard Rooms)
- FMC 9-1805 (Minors allowed: Family Billiard Rooms)
- FMC 9-1905 (Public Dancing - Permit Required)
- FMC 10-105 (Noise Ordinance)
- FMC 10-708 (Unlawful Nuisances - High Calls for Police Service)
- FMC 12-224 (C-M Zone, Adult Theater activities not permitted, see 12-105-T-1.1 for definition of Adult Theater, and 12-306-N-30 for additional limitations on Adult Business activities.)

A current version of the Fresno Municipal Code may be viewed at the City of Fresno's website: www.Fresno.gov. The link to the FMC is located on the Home Page of that website.

2. State and Federal Law

The applicant shall comply with all applicable state, federal, and local law, including but not limited to the following California Business and Professions Code sections and the California Department of Alcoholic Beverage Control rules:

- BP 24046 (Required to Post ABC License on Premises)
- BP 25612.5 (Loitering, Open Alcoholic Beverage Containers, Consuming Alcoholic Beverages on Premises, Exterior Lighting, Litter Removal, Graffiti Removal, Signs and Barriers in Windows and Doors, Public Phones Blocked From Incoming Calls, Areas to Display Harmful Matter, Required Copies of Operating Standards Available for Public Viewing)
- BP 25665 (Minors Remaining in Public Premises)
- ABC Act Rule 106 (No Buy One Get One Free Drinks)

ABC Act Rule 107 (No One under 21 Allowed Signs Posted)
ABC Act Rule 139 (Interior Lighting Required for Identification of Patrons)

3. Operating Hours

The sales and service of alcohol shall be permitted only between the hours of 6:00 a.m. and 12:00 a.m. (midnight) seven (7) days a week. The consumption of alcohol served prior to 12:00 a.m. (midnight) shall cease at 12:30 a.m.

4. ABC Education

Any and all employees hired to sell alcoholic beverages shall provide evidence that they have either:

- (1) Completed training from the State of California Department of Alcoholic Beverage Control--Fresno District Office-administered "Leadership and Education in Alcohol and Drugs" (LEAD) Program as confirmed by receipt of an ABC-issued certificate of completion; or,
- (2) Completed equivalent training acceptable to the ABC-- Fresno District Office to ensure proper distribution of beer, wine, distilled spirits, tobacco, and inhalants to adults of legal age.

If any prospective employee designated to sell alcoholic beverages, tobacco or inhalants does not currently have such training then:

- (1) The ABC-licensed proprietors shall have confirmed with the Development Department within 15 days of the final approval of the CUP, that a date certain has been scheduled with the local ABC Office for the prospective employees to take the LEAD Program course; and
- (2) Within 30 days of taking the course the employee(s) or responsible employer shall deliver each required LEAD Program Certificate evidencing completion of said course.

5. Contests or Promotions

At least two weeks prior to the event, the establishment shall notify the Area Commander, or his/her designee of any promotional or special events. In addition, the establishment shall obtain written approval that the current Security Plan is adequate to address security issues that may arise from the event or promotion or approval of a new Security Plan that will be in place for the promotional or special event.

6. Security Plan.

Prior to the approval of this Conditional Use Permit, the establishment shall prepare and submit to the Area Commander a security plan for approval. Approval of the security plan by the Area Commander or his/her designee shall not be unreasonably denied. The contents of the Security Plan shall be incorporated as conditions of approval. The establishment shall be responsible to have the Area Commander or his/her designee re-approve the security plan annually running from the anniversary date of the final approval of the CUP. The establishment is responsible for providing both the Area Commander and the Planning and Development Department a copy of the approved security plan.

The Security Plan shall:

- Identify the establishment's designated contact person for all safety and security management and shall provide the telephone numbers where the contact person may be reached 24 hours a day, seven days a week.
- Confirm that a manager will be on duty during business hours and will be responsible for monitoring and controlling the behavior of patrons.
- Identify all managers of the establishment and their contact telephone numbers.
- Confirm that all bartenders and other employees shall be trained to recognize the symptoms of an obviously intoxicated patron, to refuse serving alcoholic beverages to obviously intoxicated patrons, and to report emergencies to the manager on duty and to law enforcement.
- Confirm that first aid supplies and operational fire extinguishers are located in the kitchen, service areas and the manager's office.
- Confirm that the burglar and fire alarm is monitored by a security company 24 hours a day, seven days a week.
- Identify an adequate number of acceptable interior security personnel and exterior security personnel who will monitor and control the behavior of customers inside and outside the building, the parking lot and any adjacent property under the establishment's control. The security personnel may be employees of the establishment or licensed security personnel retained from a security firm.
- Confirm that the security personnel shall regularly monitor the parking lot and any adjacent property under the establishment's control to ensure the areas are (a) free of people loitering or causing a disturbance and (b) are cleared of patrons and their vehicles one-half hour after closing.

The establishment may receive from the Fresno Police Department a form of a security plan that the establishment may refer to in preparing its security plan.

The establishment shall correct any safety or security problem or security plan violation as soon as possible after receiving written notice of such problem from the Fresno Police Department. After the initial security plan is approved and implemented, it is the responsibility of the owner or owner's representative to contact the Fresno Police Department to inquire about police calls for service or public safety problems at the location. Contact may be made in person, by telephone or by electronic mail. Review of police calls for services may be conducted at any time by the Fresno Police Department.

The applicant will maintain a copy of the current Security Plan and shall present the Security Plan immediately upon request by a peace officer.

7. Property Responsibility

Frequent responses by the FPD arising out of or relating to the operation or management of the real property owned or controlled by the permittee causing any combination of the following: animal disturbances; violent criminal acts; illegal consumption of intoxicants in public view; gaming activities; and juvenile disturbances, or any of the other activities set forth in the Fresno Municipal Code section 10-708(g) may result in an FPD recommendation to the Director of Planning and Development to commence proceedings to revoke the Conditional Use Permit for violation of the Management of Real Property Ordinance. In addition to recommending the commencement of revocation proceedings, the FPD may pursue any of the other remedies set forth in FMC, section 10-710, including assessing fines against the proprietor for the violations of the Management of Real Property Ordinance.

"Frequent" means response by the Fresno Police Department is occurring more than 1.5 times the average number of such responses (3 calls for every 2) for property of a similar size and character within the same policing district.

8. Posting Property

The applicant shall post the property with the appropriate Fresno Municipal Code signs advising that consumption of alcoholic beverages, gambling, trespassing or loitering will be in violation of municipal ordinances. The applicant must send a letter to the Fresno Police Department, signed and dated by the applicant, every 180 days that authorizes FPD peace officers to enter the applicant's real property and/or establishment to enforce against the aforementioned activities at the business. The owners and employees are responsible for abating those activities when they occur during business hours.

The establishment shall not allow alcoholic beverages to be consumed outside the building premises or any other adjacent property under its control. No alcoholic beverage will be consumed on any property adjacent to the premises (i.e., parking lot and sidewalks). If the alcoholic beverages are consumed on property not owned or controlled by the applicant, the applicant shall immediately report such consumption to the Fresno Police Department.

The establishment shall not allow any loitering on building premises or any adjacent property under its ownership or control.

The establishment shall not allow any gambling on building premises or any adjacent property under its control.

There shall be no amusement devices or Billiard tables maintained upon the premises without the proper permits issued through the City of Fresno Business Tax Division.

9. The establishment shall ensure that all employees are aware of and comply with these conditions. The establishment shall have each employee sign a written acknowledgment that he/she has reviewed and understood each of these conditions. The written acknowledgement shall be maintained by the establishment and made available to the Fresno Police Department upon reasonable request.

FRESNO POLICE DEPARTMENT

 3/17/10

Capt. Greg Garner Date
Southwest District Commander

Exhibit I
Environmental Assessment No. C-10-102

CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. C-10-102

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

APPLICANT: Cynthia Zamora
AEC Solutions, Inc.
1713 Tulare Street, Suite 124
Fresno, California 93721

PROJECT LOCATION: Located on the east side of South Elm Avenue between East Annadale and East Vine Avenues (APN: 328-240-32)

PROJECT DESCRIPTION: Conditional Use Permit Application No. C-10-122 requests authorization to: (1) Expand and existing restaurant to create a banquet room (**not a banquet hall**); and, (2) Obtain a State of California Alcoholic Beverage Control (ABC) Type 41 (restaurant - *sale of beer and wine for consumption on the licensed premises*) license for the facility. The subject site is zoned M-1 (*Light Industrial*).

This project is exempt under Section 15301 (Class 1/Existing Facilities) and Section 15303 (Class 3/New Construction or Conversion of Small Structures) of the California Environmental Quality Act (CEQA) Guidelines.

EXPLANATION: Section 15301 (Class 1/Existing Facilities) of the CEQA Guidelines exempts from the provisions of CEQA, projects consisting of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Section 15303 (Class 3/New Construction or Conversion of Small Structures) of the CEQA Guidelines exempts from the provisions of CEQA, projects consisting of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

The proposed use includes only interior modifications. These modifications are being done to increase the size of an existing use (a restaurant) by 1,600 square feet. This is a negligible expansion of the existing use.

Date: September 3, 2010

Prepared By: Bonique Salinas, Planner

Submitted by:



Mike Sanchez, Planning Manager
City of Fresno
Development & Resource Management Dept.
(559) 621-8277